

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Oxnard to construct Camino Del Sol, a public street, at-grade across the track of the Union Pacific Railroad Company in the City of Oxnard, County of Ventura.

Application 01-10-047
(Filed October 26, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING STAFF MOTION TO LATE FILE ITS PROTEST**

The Rail Crossings Engineering Section (RCES) of the Rail Safety and Carriers Division filed a motion on July 22, 2003, for leave to late file a protest to the application of the City of Oxnard (City) to construct a public street at-grade across the railroad tracks of the Union Pacific Railroad Company (Union Pacific). Union Pacific had filed a protest on December 7, 2001. RCES stated that it had not filed its protest earlier because it was attempting in its advisory role to reach an agreement with the City on the proposed rail crossing.

The City on July 31, 2003, filed in opposition to the RCES motion to late file. The City notes that under Rule 30(f) of the Rules of Practice and Procedure, protests were to be filed within 30 days after the City's application was posted. The City asserts that RCES has had no meetings with the City since December 2002, and that RCES in a telephone status conference on April 23, 2003, gave no indication that it intended to file a protest. The City states that it will be severely prejudiced by the late entry of another party, since its direct testimony has already been submitted (responding only to the Union Pacific protest) and the formal hearing is only a month away (September 9 - 12, 2003).

This ruling grants the motion of RCES to late file its protest. In a hearing in which public safety will be a key consideration, the Commission must consider the testimony of rail safety staff. Nevertheless, we agree with the City that RCES should have filed its protest months ago when it became clear that this matter would proceed to hearing. Accordingly, if the City believes that additional time is necessary for it to prepare and respond to the RCES protest, a motion to postpone the Public Participation Hearing (now set for September 8, 2003, in Oxnard) and the evidentiary hearing (September 9-12) will be granted.

If the City seeks a postponement in hearing dates, that motion should be made no later than five days after the date of this ruling. Because the assigned Administrative Law Judge will not be available between the dates of September 15 - October 3, 2003, the proposed new dates should be after October 3, 2003. The City is asked to coordinate with counsel for Union Pacific and RCES in proposing new dates for hearing.

IT IS RULED that:

1. The motion of the Rail Crossings Engineering Section (RCES) to late file a protest to this application is granted.
2. If in response to the late filing by RCES, the City of Oxnard (City) moves to postpone the dates of Public Participation Hearing (September 8) and evidentiary hearing (September 9-12), the proposed new dates should be after October 3, 2003.

3. If the City proposes new dates for hearing, that motion should be made within five days of the date of this ruling.

Dated August 5, 2003, at San Francisco, California.

/s/ GLEN WALKER
Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Staff Motion to Late File Its Protest on all parties of record in this proceeding or their attorneys of record.

Dated August 5, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN
Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.